

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF OHIO

SHEPP ELECTRIC COMPANY, INC)	
)	
Plaintiff,)	
)	CIVIL ACTION NO: 1:20-CV-00452-SO
-VS-)	
)	
RUSTY BOYER, et al)	
Defendant.)	

MOTION FOR PROTECTIVE ORDER TO QUASH OR LIMIT SUBPOENA

Now comes John Mattingly, by and through counsel, and moves that the Subpoena issued by Plaintiff to him be quashed or limited pursuant to Rule 26(C) Federal Rules of Civil Procedure for the reasons set forth herein.

FACTS

Plaintiff is a business operation known as Shepp Electric Company Inc. a general electric contractor that is a franchisee/licensee of Generac Holdings Inc. for the sale and installation of home/business backup generators. Defendant Rusty Boyer is a member of Generator One LLC FKA Your Generator Connection LLC which is engaged in the exact same business as Plaintiff.

Plaintiff and Generator One LLC are direct competitors in the same general geographic area.

John Mattingly is the owner of Mattingly Brothers Inc., a general electrical contractor for residential and commercial businesses. He is also a member of Generator One LLC. Mattingly Brothers Inc. does the electrical work for Generator One LLC installations of generators in homes and businesses.

ISSUES

The gist of Plaintiff's complaint is that Mr. Boyer was cyber-squatting on domain names and tying up the internet use of "Shepp Electric" and various permutations thereof. Plaintiff also alleges that Defendant Rusty Boyer redirected customers from Shepp's website to his own.

THE SUBPOENA

On or about 6-26-20 Plaintiff issued a subpoena to John Mattingly, a copy of which is attached hereto, that goes on for half a page to define “document” as every conceivable electronic book, record, or scrap of paper that exists.

The subpoena then goes on to demand documents from Mr. Mattingly for ten(10) years for patently absurd categories. For instance, the subpoena demands every “document” between Mr. Mattingly(and presumably Mattingly Brothers Inc. and Generator One, LLC) and their franchisor/licensor Generac. This would require producing every invoice, circular, letter, and other documents between a franchisor/licensor to and from the franchisee/licensee. This would involve literally thousands of documents and the labor of an employee to gather same for several weeks. Additionally, as a direct competitor of Generator One LLC, Plaintiff is seeking proprietary information from Generator One LLC which is unreasonable. Also, this would require disclosure of the names and addresses of every generator unit installed by Generator One LLC. In addition to installation of the generators, Generator One LLC makes significant sums of money every year servicing the units on an annual basis. Disclosing the customer list would enable Plaintiff to poach Generator One LLC’s accounts, resulting in untold financial loss.

The subpoena specifically asks to identify the date, location and description of every generator installed in the last ten (10) years.

In an attempt to resolve this problem there were emails sent to Plaintiff’s counsel on 7-10-20 and 7-24-20 trying to pare down the scope of the request and at least two telephone conferences regarding the same. The only modification Plaintiff was willing to make was to limit the scope to seven (7) years as Generator One LLC, fka Your Generator Connection LLC was not in existence ten (10) years ago and Mr. Mattingly has only known Mr. Boyer for seven (7) years. Otherwise, no agreement was reached to reduce the scope of the inquiry.

For these reasons, John Mattingly moves that the subpoena be quashed or limited in scope to some reasonable set of topics and a response that does not disclose proprietary secrets or customer lists of Generator One LLC. Additionally, if documents are required to be produced, John Mattingly will require at least forty-five (45) days to gather same

Respectfully Submitted,

/s/ Scott R Stefl

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CERTIFICATE OF SERVICE

A copy of the forgoing was sent electronically to Steward D. Roll via sdroll@climacolaw.com this 5TH day of August 2020

/s/ Scott R Stefl

SCOTT R STEFL